

AMENDED IN SENATE MAY 22, 2003

AMENDED IN SENATE MAY 8, 2003

AMENDED IN SENATE APRIL 22, 2003

## SENATE BILL

No. 117

Introduced by ~~Senators Machado and Kuehl~~ *Senator Machado*

February 3, 2003

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~~An act to add Part 4.9 (commencing with Section 12400) to Division 6 of the Water Code, relating to water, and making an appropriation therefor. An act relating to public resources.~~

### LEGISLATIVE COUNSEL'S DIGEST

SB 117, as amended, Machado. Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002: *Colorado River Quantification Settlement Agreement*.

Under existing law, the United States Department of Interior supplies Colorado River water to various public water agencies.

The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, an initiative measure approved by the voters at the November 5, 2002, statewide general election, authorizes, for the purposes of financing a safe drinking water, water quality, and water reliability program, the issuance of bonds in the amount of \$3,440,000,000. *The act requires bond funds made available by the act to be deposited in the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002, which the act establishes.*

*This bill would make statements of legislative intent to establish the Colorado River Quantification Settlement Agreement Account in the State Treasury, to transfer an unspecified amount of funds from the Water Security, Clean Drinking Water, Coastal and Beach Protection*

*Fund of 2002 to the Colorado River Quantification Settlement Agreement Account, and to establish an entity to administer the environmental mitigation program associated with the implementation of the Colorado River Quantification Settlement Agreement. The Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 contains those funds made available by the initiative measure.*

~~This bill would establish the Colorado River Quantification Settlement Agreement Account in the State Treasury, and transfer \$200,000,000 from the fund to the account. The bill would appropriate those transferred funds to the Department of Water Resources to administer a competitive grant program, consistent with the act, for projects located within the service area of the Metropolitan Water District of Southern California and performed under the sponsorship of that district or the San Diego County Water Authority, to further the ability of southern California water users to live within the state's basic annual apportionment of 4.4 million acre-feet of Colorado River water; improve water service reliability, protect communities from drought, increase supplies of clean drinking water, or improve drinking water quality and security. The bill would require specified amounts of those funds to be administered by the department in coordination with the State Department of Health Services and the California Bay Delta Authority. The bill would require unencumbered funds remaining in the account on January 1, 2008, to be transferred to the fund.~~

~~The bill would state the intent of the Legislature to establish an entity, such as a joint powers authority, to administer environmental mitigation programs associated with a Colorado River Quantification Settlement Agreement.~~

~~The bill would provide that the funding and use of Colorado River water, as proposed in the settlement agreement for salinity management of the Salton Sea, does not set any precedent or establish any right, further obligation, contract, or contract purpose for the use of the Colorado River water for the Salton Sea. The bill would require the funding and use of Colorado River water for salinity management of the Salton Sea to be accounted for as part of the Imperial Irrigation District's allocation of Colorado River water, and would prohibit that funding and use from impairing, harming, or diminishing the rights and interests of any state contract user of Colorado River water.~~

~~Vote: majority. Appropriation: yes no. Fiscal committee: yes no. State-mandated local program: no.~~



*The people of the State of California do enact as follows:*

~~SECTION 1. Part 4.9 (commencing with Section 12400) is~~  
*SECTION 1. (a) In enacting the act adding this section, the*  
*Legislature finds and declares all of the following:*

*(1) California must live within its 4.4 million acre-foot annual*  
*allotment of water from the Colorado River as decreed by the*  
*United States Supreme Court.*

*(2) The proposed quantification settlement agreement*  
*announced on March 12, 2003, is an important element of*  
*California's plan to live within the 4.4 million acre-foot limit.*

*(3) If the proposed quantification settlement agreement is not*  
*finalized, the State of California will actively explore other*  
*approaches to live within its 4.4 million acre-foot limit.*

*(b) It is the intent of the Legislature in subsequent amendments*  
*to establish the Colorado River Quantification Settlement*  
*Agreement Account in the State Treasury.*

*(c) It is the intent of the Legislature in subsequent amendments*  
*to transfer the sum of \_\_\_\_\_ dollars (\$\_\_\_\_) from the Water*  
*Security, Clean Drinking Water, Coastal and Beach Protection*  
*Fund of 2002 to the Colorado River Quantification Settlement*  
*Agreement Account.*

*(d) It is the intent of the Legislature in subsequent amendments*  
*to establish an entity, such as a joint powers authority, to*  
*administer the environmental mitigation programs associated*  
*with the implementation of the Colorado River Quantification*  
*Settlement Agreement.*

~~added to Division 6 of the Water Code, to read:~~

~~PART 4.9. COLORADO RIVER QUANTIFICATION~~  
~~SETTLEMENT AGREEMENT ACCOUNT~~

~~12400. In enacting this part, the Legislature finds and declares~~  
~~all of the following:~~

~~(a) California must live within its 4.4 million acre-foot annual~~  
~~allotment of water from the Colorado River as decreed by the~~  
~~United States Supreme Court.~~

~~(b) The proposed quantification settlement agreement~~  
~~announced on March 12, 2003, is an important element of~~  
~~California's plan to live within the 4.4 million acre-foot limit.~~

~~(c) If the proposed quantification settlement agreement is not finalized, the State of California will actively explore other approaches to live within its 4.4 million acre-foot limit.~~

~~12401. As used in this part, the following terms have the following meanings:~~

~~(a) “Account” means the Colorado River Quantification Settlement Agreement Account.~~

~~(b) “Fund” means the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002.~~

~~(c) “Settlement agreement” means the Colorado River Quantification Settlement Agreement.~~

~~12402. The Colorado River Quantification Settlement Agreement Account is hereby established in the State Treasury.~~

~~12403. The sum of two hundred million dollars (\$200,000,000) is hereby transferred from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 to the account, as follows:~~

~~(a) Of the funds made available pursuant to Section 79530, the sum of twenty five million dollars (\$25,000,000)~~

~~(b) Of the funds made available pursuant to subdivision (d) of Section 79550, the sum of twenty five million dollars (\$25,000,000).~~

~~(c) Of the funds made available pursuant to Section 79560 and to be administered by the department pursuant to Section 79560.1, the sum of one hundred fifty million dollars (\$150,000,000).~~

~~12404. (a) The sum of two hundred million dollars (\$200,000,000) is hereby appropriated from the account to the department, as follows:~~

~~(1) Of the funds made available pursuant to Section 79530, the sum of twenty five million dollars (\$25,000,000), to be administered by the department in coordination with the State Department of Health Services, to administer a competitive grant program as described in subdivision (b), consistent with the purposes identified in Section 79530.~~

~~(2) Of the funds made available pursuant to subdivision (d) of Section 79550, the sum of twenty five million dollars (\$25,000,000), to be administered by the department in coordination with the California Bay Delta Authority, to administer a competitive grant program as described in~~

~~subdivision (b), consistent with the purposes identified in subdivision (d) of Section 79550.~~

~~(3) Of the funds made available pursuant to Section 79560 and to be administered by the department pursuant to Section 79560.1, the sum of one hundred fifty million dollars (\$150,000,000) to administer a competitive grant program as described in subdivision (b), consistent with the purposes described in Section 79560.~~

~~(b) The department shall use the funds in the account to administer a competitive grant program, consistent with the purposes described in subdivision (a), for projects located within the service area of the Metropolitan Water District of Southern California and performed under the sponsorship of that district or the San Diego County Water Authority, that do one or more of the following:~~

~~(1) Further the ability of southern California water users to live within California's basic annual apportionment of 4.4 million acre-feet of Colorado River water.~~

~~(2) Improve water service reliability.~~

~~(3) Protect communities from drought.~~

~~(4) Increase supplies of clean drinking water.~~

~~(5) Improve drinking water quality and security.~~

~~(c) The department may make grants for feasibility studies, project design, or project construction.~~

~~(d) The department may make a grant only if it determines that the grant meets the requirements of Division 26.5 (commencing with Section 79500).~~

~~(e) (1) The competitive process shall include submission of application packages that meet requirements prescribed by the department, and evaluation of applications against a standardized set of criteria that shall include, but is not limited to, all of the following:~~

~~(A) Technical adequacy.~~

~~(B) Financial feasibility.~~

~~(C) Economic feasibility.~~

~~(D) Environmental adequacy.~~

~~(E) Readiness to proceed.~~

~~(F) Consistency with California's draft Colorado River Water Use Plan.~~

~~(2) The department shall also take into consideration, with respect to each proposed project, all of the following:~~

~~(A) Consistency with existing regional water management plans.~~

~~(B) Ability to be implemented expeditiously and to provide near-term benefits.~~

~~(C) Availability of third-party or local matching funds.~~

~~(D) Potential to alleviate groundwater quality degradation.~~

~~(E) Development or application of innovative technologies.~~

~~(F) Job creation in economically disadvantaged communities.~~

~~(f) Grant agreements entered into pursuant to this section may include provisions determined to be necessary by the department.~~

~~All grant agreements pursuant to this section shall include a determination by the department that the project is technically, economically, and environmentally justified and is feasible. Notwithstanding Section 7.32 of the State Contracts Manual, the department may make advance payments of funds as established in the grant agreements.~~

~~(g) All grant agreements shall include the following language: "Recipient is responsible for compliance with all applicable competitive bidding and contract administration laws and, before awarding any contract for a public works project funded in whole or in part under the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Division 26.5 (commencing with Section 79500) of the Water Code), shall adopt and enforce a labor compliance program in accordance with Section 1771.5 of the Labor Code."~~

~~(h) Unencumbered funds remaining in the account on January 1, 2008, shall be transferred to the fund, for implementation of Section 79530, subdivision (d) of Section 79550, and Section 79560.~~

~~12405. (a) It is the intent of the Legislature to establish an entity, such as a joint powers authority, to administer the environmental mitigation programs associated with the settlement agreement.~~

~~(b) It is the further intent of the Legislature that the entity have all of the following characteristics:~~

~~(1) The entity includes the Department of Fish and Game.~~

~~(2) The Metropolitan Water District of Southern California and the San Diego County Water Authority is required to pay into an~~

1 ~~account controlled by the entity a dollar amount equal to the~~  
2 ~~amount received from all grant agreements executed pursuant to~~  
3 ~~Section 12403, within 30 days of the date of receipt of grant~~  
4 ~~agreement funding.~~

5 ~~(3) Upon termination of the settlement agreement and payment~~  
6 ~~of all costs for outstanding environmental mitigation obligations,~~  
7 ~~any funds remaining within the control of the entity are refunded~~  
8 ~~to the State of California.~~

9 ~~12406. The Legislature finds and declares all of the~~  
10 ~~following:~~

11 ~~(a) That the costs of voluntary water transfers between willing~~  
12 ~~sellers and buyers should be borne by the parties to the specific~~  
13 ~~transfers, and this state should not utilize state funds to facilitate~~  
14 ~~those transfers.~~

15 ~~(b) This legislation and other legislation involving the use of~~  
16 ~~state funds for the direct and indirect payment of transportation~~  
17 ~~and environmental mitigation costs related to the settlement~~  
18 ~~agreement transfers is being done solely in the context of an~~  
19 ~~overriding public purpose of meeting the state's overall water~~  
20 ~~needs in relation to its commitment to reduce its reliance on~~  
21 ~~Colorado River water, and in recognition of the 15-year limitation~~  
22 ~~on the need for the settlement agreement transfers to mitigate~~  
23 ~~salinity impacts on the Salton Sea, and is neither a precedent nor~~  
24 ~~otherwise expresses a state policy to subsidize water transfers.~~

25 ~~(c) No additional state funds will be used to facilitate the~~  
26 ~~settlement agreement transfers other than as called for in this part.~~

27 ~~(d) Nothing in this part is intended to limit or affect the~~  
28 ~~authority or jurisdiction of the state courts, the State Water~~  
29 ~~Resources Control Board, or the appropriate regional water~~  
30 ~~quality control board with regard to the Salton Sea.~~

31 ~~12407. (a) The Legislature finds and declares that the~~  
32 ~~funding, use, and duration of use, of Colorado River water, as~~  
33 ~~proposed in the settlement agreement for salinity management of~~  
34 ~~the Salton Sea, is to satisfy the requirement that the settlement~~  
35 ~~agreement transfers not materially increase the projected salinity~~  
36 ~~level of the Salton Sea for 15 years, while allowing for a phase in~~  
37 ~~of the transfers, and providing an opportunity for state and federal~~  
38 ~~reclamation decisions regarding the Salton Sea.~~

39 ~~(b) The funding and use of Colorado River water as proposed~~  
40 ~~in the settlement agreement for salinity management of the Salton~~

1 ~~Sea does not set any precedent or establish any right, further~~  
2 ~~obligation, contract, or contract purpose for the use of the~~  
3 ~~Colorado River water for the Salton Sea.~~

4 (e) ~~The funding and use of Colorado River water, as proposed~~  
5 ~~in the settlement agreement for salinity management of the Salton~~  
6 ~~Sea, shall be accounted for as part of the Imperial Irrigation~~  
7 ~~District's allocation of Colorado River water, and may not impair,~~  
8 ~~harm, or diminish the rights and interests of any state contract user~~  
9 ~~of Colorado River water.~~

